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[additional counsel on signature page]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ADAM VIGNOLA, Individually and
On Behalf of All Others Similarly
Situated,

Plaintiff.

V.

FAT BRANDS, INC., ANDREW A.
WIEDERHORN, RON ROE, JAMES
NEUHAUSER, EDWARD H. RENSI,
MARC L. HOLTZMAN, SQUIRE
JUNGER, SILVIA KESSEL, JEFF
LOTMAN, FOG CUTTER CAPITAL
GROUP INC., and TRIPPOINT
GLOBAL EQUITIES, LLC,

Defendants.

No. 2:18-cv-07469-PSG-PLA

STIPULATED PROTECTIVE ORDER

CLASS ACTION

1 WHEREAS, Lead Plaintiffs Charles Jordan and David Kovacs (“Plaintiffs”)
2 and Defendants FAT Brands, Inc., Andrew A. Wiederhorn, Ron Roe, James
3 Neuhauser, Edward H. Rensi, Fog Cutter Capital Group Inc., and TriPoint Global
4 Equities, LLC (“Defendants”), by and through their undersigned counsel, have
5 stipulated and agreed, subject to the approval of the Court, that the protective order
6 set forth below shall govern the production and use of documents and information
7 provided during the course of discovery in the above-captioned action;

8 THEREFORE, IT IS HEREBY ORDERED BY THE COURT, that any
9 person subject to this Order, including without limitation, the individuals and
10 entities described herein, shall adhere to the following terms, procedures, and
11 conditions:

12 **1. GENERAL**

13 1.1 Purposes and Limitations. Discovery in this action is likely to involve
14 production of confidential, proprietary, or private information for which special
15 protection from public disclosure and from use for any purpose other than
16 prosecuting this litigation may be warranted. Accordingly, the parties hereby
17 stipulate to and petition the Court to enter the following Stipulated Protective Order.
18 The parties acknowledge that this Order does not confer blanket protections on all
19 disclosures or responses to discovery and that the protection it affords from public
20 disclosure and use extends only to the limited information or items that are entitled
21 to confidential treatment under the applicable legal principles. The parties further
22 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
23 Order does not entitle them to file confidential information under seal; Civil Local
24 Rule 79-5 sets forth the procedures that must be followed and the standards that will
25 be applied when a party seeks permission from the court to file material under seal.

26 1.2 Good Cause Statement. This action is likely to involve valuable
27 commercial, financial, or proprietary information for which special protection from
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1 public disclosure and from use for any purpose other than prosecution of this action
2 is warranted. Such confidential and proprietary materials and information consist
3 of, among other things, confidential business or financial information, information
4 regarding confidential business practices, or other confidential commercial
5 information (including information implicating privacy rights of third parties), and
6 information otherwise generally unavailable to the public, or which may be
7 privileged or otherwise protected from disclosure under state or federal statutes,
8 court rules, case decisions, or common law. Accordingly, to expedite the flow of
9 information, to facilitate the prompt resolution of disputes over confidentiality of
10 discovery materials, to adequately protect information the parties are entitled to
11 keep confidential, to ensure that the parties are permitted reasonable necessary uses
12 of such material in preparation for and in the conduct of trial, to address their
13 handling at the end of the litigation, and serve the ends of justice, a protective order
14 for such information is justified in this matter. It is the intent of the parties that
15 information will not be designated as confidential for tactical reasons and that
16 nothing be so designated without a good faith belief that it has been maintained in
17 a confidential, non-public manner, and there is good cause why it should not be part
18 of the public record of this case.

19 **2. DEFINITIONS**

20 2.1 Action: the above-styled action.

21 2.2 Challenging Party: a Party or Non-Party that challenges the
22 designation of information or items under this Order.

23 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
24 how it is generated, stored or maintained) or tangible things that qualify for
25 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
26 the Good Cause Statement.

1 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
2 their support staff).

3 2.5 Designating Party: a Party or Non-Party that designates information or
4 items that it produces in disclosures or in responses to discovery as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
6 ONLY.”

7 2.6 Disclosure or Discovery Material: all items or information, regardless
8 of the medium or manner in which it is generated, stored, or maintained (including,
9 among other things, testimony, transcripts, and tangible things), that are produced
10 or generated in disclosures or responses to discovery in this matter.

11 2.7 Expert: a person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as
13 an expert witness or as a consultant in this Action.

14 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
15 Information or Items: extremely sensitive “CONFIDENTIAL” Information or
16 Items, disclosure of which to another Party or Non-Party would create a substantial
17 risk of serious harm that could not be avoided by less restrictive means.

18 2.9 House Counsel: attorneys who are employees of a party to this Action.
19 House Counsel does not include Outside Counsel of Record or any other outside
20 counsel.

21 2.10 Non-Party: any natural person, partnership, corporation, association,
22 or other legal entity not named as a Party to this action.

23 2.11 Outside Counsel of Record: attorneys who are not employees of a party
24 to this Action but are retained to represent or advise a party to this Action and have
25 appeared in this Action on behalf of that party or are affiliated with a law firm that
26 has appeared on behalf of that party, including support staff.

1 2.12 Party: any party to this Action, including all of its officers, directors,
2 employees, consultants, retained experts, and Outside Counsel of Record (and their
3 support staffs).

4 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
5 Discovery Material in this Action.

6 2.14 Professional Vendors: persons or entities that provide litigation
7 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
8 demonstrations, and organizing, storing, or retrieving data in any form or medium)
9 and their employees and subcontractors.

10 2.15 Protected Material: any Disclosure or Discovery Material that is
11 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY.”

13 2.16 Receiving Party: a Party that receives Disclosure or Discovery
14 Material from a Producing Party.

15 **3. SCOPE**

16 The protections conferred by this Stipulation and Order cover not only
17 Protected Material (as defined above), but also (1) any information copied or
18 extracted from Protected Material; (2) all copies, excerpts, summaries, or
19 compilations of Protected Material; and (3) any testimony, conversations, or
20 presentations by Parties or their Counsel that might reveal Protected Material.

21 Any use of Protected Material at trial shall be governed by the orders of the
22 trial judge. This Order does not govern the use of Protected Material at trial.

23 **4. DURATION**

24 Once a case proceeds to trial, all of the court-filed information to be
25 introduced that was previously designated as confidential or maintained pursuant to
26 this protective order becomes public and will be presumptively available to all
27 members of the public, including the press, unless compelling reasons supported by
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1 specific factual findings to proceed otherwise are made to the trial judge in advance
2 of the trial. *See Kamakana v. City and Cty. of Honolulu*, 447 F.3d 1172, 1180-81
3 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents
4 produced in discovery from “compelling reasons” standard when merits-related
5 documents are part of court record). Accordingly, the terms of this protective order
6 do not extend beyond the commencement of the trial.

7 **5. DESIGNATING PROTECTED MATERIAL**

8 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**
9 Each Party or Non-Party that designates information or items for protection under
10 this Order must take care to limit any such designation to specific material that
11 qualifies under the appropriate standards. The Designating Party must designate for
12 protection only those parts of material, documents, items, or oral or written
13 communications that qualify so that other portions of the material, documents,
14 items, or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations
17 that are shown to be clearly unjustified or that have been made for an improper
18 purpose (e.g., to unnecessarily encumber the case development process or to impose
19 unnecessary expenses and burdens on other parties) may expose the Designating
20 Party to sanctions.

21 If it comes to a Designating Party’s attention that information or items that it
22 designated for protection do not qualify for protection, that Designating Party must
23 promptly notify all other Parties that it is withdrawing the inapplicable designation.

24 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
25 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
26 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
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1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic
5 documents, but excluding transcripts of depositions or other pretrial or trial
6 proceedings), that the Producing Party affix, at a minimum, the legend
7 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
8 ONLY” (“CONFIDENTIAL legend” or “HIGHLY CONFIDENTIAL legend,”
9 respectively), to each page that contains protected material. If only a portion or
10 portions of the material on a page qualifies for protection, the Producing Party also
11 must clearly identify the protected portion(s) (e.g., by making appropriate markings
12 in the margins).

13 A Party or Non-Party that makes original documents available for inspection
14 need not designate them for protection until after the inspecting Party has indicated
15 which documents it would like copied and produced. During the inspection and
16 before the designation, all of the material made available for inspection shall be
17 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
18 documents it wants copied and produced, the Producing Party must determine
19 which documents, or portions thereof, qualify for protection under this Order. Then,
20 before producing the specified documents, the Producing Party must affix the
21 CONFIDENTIAL legend or HIGHLY CONFIDENTIAL legend to each page that
22 contains Protected Material. If only a portion or portions of the material on a page
23 qualifies for protection, the Producing Party also must clearly identify the protected
24 portion(s) (e.g., by making appropriate markings in the margins).

25 (b) for testimony given in depositions that the Designating Party
26 identify the Disclosure or Discovery Material on the record, before the close of the
27 deposition or within 14 days of receipt of the certified transcript.

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(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the CONFIDENTIAL legend or HIGHLY CONFIDENTIAL legend. If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1, *et seq.* Any discovery motion must strictly comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3.

6.3 Burden. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of section 13 below (FINAL
8 DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the Court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

16 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
17 well as employees of said Outside Counsel of Record to whom it is reasonably
18 necessary to disclose the information for this Action;

19 (b) the officers, directors, and employees of the Receiving Party to
20 whom disclosure is reasonably necessary for this Action;

21 (c) Experts (as defined in this Order) of the Receiving Party to whom
22 disclosure is reasonably necessary for this Action and who have signed the
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (d) the Court and its personnel;

25 (e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to those persons identified in section 7.2 above, excluding persons identified in section 7.2(b).

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” that Party must:

1 (a) promptly notify in writing the Designating Party. Such notification shall
2 include a copy of the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to
4 issue in the other litigation that some or all of the material covered by the subpoena
5 or order is subject to this Protective Order. Such notification shall include a copy of
6 this Stipulated Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued
8 by the Designating Party whose Protected Material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served with
10 the subpoena or court order shall not produce any information designated in this
11 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
12 EYES ONLY” before a determination by the court from which the subpoena or
13 order issued, unless the Party has obtained the Designating Party’s permission. The
14 Designating Party shall bear the burden and expense of seeking protection in that
15 court of its confidential material and nothing in these provisions should be
16 construed as authorizing or encouraging a Receiving Party in this Action to disobey
17 a lawful directive from another court.

18 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
19 **PRODUCED IN THIS LITIGATION**

20 (a) The terms of this Order are applicable to information produced by a
21 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
22 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced by
23 Non-Parties in connection with this litigation is protected by the remedies and relief
24 provided by this Order. Nothing in these provisions should be construed as
25 prohibiting a Non-Party from seeking additional protections.

26 (b) In the event that a Party is required, by a valid discovery request, to
27 produce a Non-Party’s confidential information in its possession, and the Party is
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1 subject to an agreement with the Non-Party not to produce the Non-Party's
2 confidential information, then the Party shall:

3 (1) promptly notify in writing the Requesting Party and the Non-Party
4 that some or all of the information requested is subject to a confidentiality
5 agreement with a Non-Party;

6 (2) promptly provide the Non-Party with a copy of the Stipulated
7 Protective Order in this Action, the relevant discovery request(s), and a reasonably
8 specific description of the information requested; and

9 (3) make the information requested available for inspection by the
10 Non-Party, if requested.

11 (c) If the Non-Party fails to seek a protective order from this Court within
12 14 days of receiving the notice and accompanying information, the Receiving Party
13 may produce the Non-Party's confidential information responsive to the discovery
14 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
15 not produce any information in its possession or control that is subject to the
16 confidentiality agreement with the Non-Party before a determination by the Court.
17 Absent a court order to the contrary, the Non-Party shall bear the burden and
18 expense of seeking protection in this Court of its Protected Material.

19 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

20 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
21 Protected Material to any person or in any circumstance not authorized under this
22 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
23 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
24 to retrieve all unauthorized copies of the Protected Material, (c) inform the person
25 or persons to whom unauthorized disclosures were made of all the terms of this
26 Order, and (d) request such person or persons to execute the "Acknowledgment and
27 Agreement to Be Bound" that is attached hereto as Exhibit A.

1 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
2 **OTHERWISE PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
7 procedure may be established in an e-discovery order that provides for production
8 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
9 (e), insofar as the parties reach an agreement on the effect of disclosure of a
10 communication or information covered by the attorney-client privilege or work
11 product protection, the parties may incorporate their agreement in the stipulated
12 protective order submitted to the Court.

13 **12. MISCELLANEOUS**

14 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
15 person to seek its modification by the Court in the future.

16 12.2 Right to Assert Other Objections. By stipulating to the entry of this
17 Protective Order, no Party waives any right it otherwise would have to object to
18 disclosing or producing any information or item on any ground not addressed in this
19 Stipulated Protective Order. Similarly, no Party waives any right to object on any
20 ground to use in evidence of any of the material covered by this Protective Order.

21 12.3 Filing Protected Material. A Party that seeks to file under seal any
22 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
23 only be filed under seal pursuant to a court order authorizing the sealing of the
24 specific Protected Material at issue; good cause must be shown in the request to file
25 under seal. If a Party's request to file Protected Material under seal is denied by the
26 Court, then the Receiving Party may file the information in the public record unless
27 otherwise instructed by the Court.

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1 **13. FINAL DISPOSITION**

2 After the final disposition of this Action, within 60 days of a written request
3 by the Designating Party, each Receiving Party must return all Protected Material
4 to the Producing Party or destroy such material. As used in this subdivision, “all
5 Protected Material” includes all copies, abstracts, compilations, summaries, and any
6 other format reproducing or capturing any of the Protected Material. Whether the
7 Protected Material is returned or destroyed, the Receiving Party must submit a
8 written certification to the Producing Party (and, if not the same person or entity, to
9 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
10 appropriate) all the Protected Material that was returned or destroyed, and (2)
11 affirms that the Receiving Party has not retained any copies, abstracts, compilations,
12 summaries or any other format reproducing or capturing any of the Protected
13 Material. Notwithstanding this provision, counsel are entitled to retain an archival
14 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
15 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
16 work product, and consultant and expert work product, even if such materials
17 contain Protected Material. Any such archival copies that contain or constitute
18 Protected Material remain subject to this Protective Order as set forth in Section 4
19 (DURATION).

20 **14. VIOLATION OF ORDER**

21 Any violation of this Order may be punished by any and all appropriate
22 measures including, without limitation, contempt proceedings and/or monetary
23 sanctions.

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25 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**
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1 Dated: January 23, 2020

2 By: /s/ Laurence M. Rosen

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16 *Co-Lead Counsel for Plaintiffs*

17 Respectfully submitted,

18 By: /s/ John P. Stigi III

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23 *Attorneys for Defendants*

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26 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

27 DATED: January 23, 2020

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Hon. Paul L. Abrams
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on _____, 2020 in the case of *Vignola v. FAT Brands, Inc.*, Case No. 2:18-cv-07469-PSG-PLA. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order and solely for the purposes of this Action.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this Action.

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and
21 telephone number] as my California agent for service of process in connection with
22 this Action or any proceedings related to enforcement of this Stipulated Protective
23 Order.

24 Date: _____

25 | City and State where sworn and signed: _____

26 Printed name: _____

27 | Signature: _____

ATTESTATION

2 Pursuant to Local Rule 5-4.3.4(a)(2)(i), I hereby attest that all signatories
3 listed above, and on whose behalf this filing is submitted, concur in the filing's
4 content and have authorized the filing.

6 | Dated: January 23, 2020

/s/ Laurence M. Rosen

Laurence M. Rosen

CERTIFICATE OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:
I am the managing attorney of The Rosen Law Firm, P.A., with offices at 355 South
Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of eighteen.

On January 23, 2020, I electronically filed the foregoing [PROPOSED] STIPULATED PROTECTIVE ORDER with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on January 23, 2020.

/s/ Laurence M. Rosen
Laurence M. Rosen